

HOUSE BILL No. 1383

DIGEST OF INTRODUCED BILL

Citations Affected: IC 13-14-8-3; IC 13-22-2-4; IC 13-23-1-2.

Synopsis: Environmental rulemaking. Prohibits the air pollution control board, water pollution control board, and solid waste management board from adopting a rule or standard that is more stringent than a corresponding federal provision established under federal law unless the: (1) environmental quality service council makes a recommendation to the general assembly that the rule or standard should be more stringent than the corresponding federal provision; and (2) general assembly enacts a statute that authorizes the board to adopt a rule or standard that is more stringent than the corresponding federal provision.

Effective: July 1, 2005.

Wolkins, Bottorff, Cherry

January 13, 2005, read first time and referred to Committee on Environmental Affairs.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1383

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 13-14-8-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) A rule or
3 standard adopted by a board may:

4 (1) make different provisions as required by varying
5 circumstances and conditions for different contaminant sources
6 and for different geographical areas;

7 (2) be made applicable to sources outside Indiana that:

8 (A) are causing;

9 (B) are contributing to; or

10 (C) could cause or contribute to;

11 environmental pollution in Indiana; and

12 (3) make provision for abatement standards and procedures:

13 (A) concerning occurrences, emergencies, or pollution; or

14 (B) on other short term conditions constituting an acute danger
15 to health or to the environment.

16 **(b) Subject to subsections (c) and (d), a rule or standard adopted**
17 **by a board may not be more stringent than a corresponding federal**

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provision established under federal law.

(c) A rule or standard adopted by a board may be more stringent than a corresponding federal provision established under federal law if:

(1) a designee of the board presents evidence to the environmental quality service council that indicates why the rule or standard should be more stringent than the corresponding federal provision;

(2) the environmental quality service council makes a recommendation to the general assembly that the rule or standard should be more stringent than the corresponding federal provision; and

(3) the general assembly enacts a statute that authorizes the board to adopt a rule or standard that is more stringent than the corresponding federal provision established under federal law.

(d) If the environmental quality service council reviews a rule or standard adopted by a board that is more stringent than a corresponding federal provision established under federal law and the environmental quality service council believes the rule or standard should not be more stringent, the environmental quality service council shall make a recommendation to the general assembly that the general assembly should enact a statute to:

(1) void the rule or standard; and

(2) require the board to adopt a rule or standard that is not more stringent than the corresponding federal provision established under federal law.

SECTION 2. IC 13-22-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The board shall adopt rules under IC 4-22-2 and IC 13-14-8 on the proper and safe transportation, treatment, storage, and disposal of hazardous wastes. Whenever possible, the rules adopted under this section must allow for variation in Indiana with regard to population density, climate, and geology.

(b) **Subject to subsections (c) and (d)**, rules adopted under this section concerning incinerators used as hazardous waste facilities may **not** establish requirements **that are** more stringent than the requirements for hazardous waste incinerators established by regulations adopted by the Administrator of the United States Environmental Protection Agency under the following statutes:

(1) The federal Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.).

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(2) The federal Clean Air Act (42 U.S.C. 7401 et seq.), as amended by the federal Clean Air Act Amendments of 1990 (P.L.101-549).

(c) A rule adopted under this section concerning incinerators used as hazardous waste facilities may establish requirements that are more stringent than a corresponding federal provision established under federal law if:

(1) a designee of the board presents evidence to the environmental quality service council that indicates why the rule should be more stringent than the corresponding federal provision;

(2) the environmental quality service council makes a recommendation to the general assembly that the rule should be more stringent than the corresponding federal provision; and

(3) the general assembly enacts a statute that authorizes the board to adopt a rule that is more stringent than the corresponding federal provision established under federal law.

(d) If the environmental quality service council reviews a rule adopted under this section that is more stringent than a corresponding federal provision established under federal law and the environmental quality service council believes the rule should not be more stringent, the environmental quality service council shall make a recommendation to the general assembly that the general assembly should enact a statute to:

(1) void the rule; and

(2) require the board to adopt a rule that is not more stringent than the corresponding federal provision established under federal law.

SECTION 3. IC 13-23-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The board shall adopt rules under IC 4-22-2 and IC 13-14-8 for the establishment and operation of the program established under section 1 of this chapter.

(b) **Subject to subsections (d) and (e),** the rules ~~must~~ **may** not be **more or** less stringent than the regulations adopted by the Administrator of the United States Environmental Protection Agency under Section 9003 of the federal Solid Waste Disposal Act, as amended (42 U.S.C. 6991b, as amended).

(c) The rules adopted under subsection (a) must include the following:

(1) Requirements for maintaining:

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(A) a leak detection system;
 (B) an inventory control system coupled with tank testing; or
 (C) a comparable system or method;
 designed to identify releases in a manner consistent with the
 protection of human health and the environment.

(2) Requirements for maintaining records of any:

(A) monitoring;
 (B) leak detection system;
 (C) inventory control system or tank testing; or
 (D) comparable system.

(3) Requirements for reporting of:

(A) any releases; and
 (B) corrective action taken in response to a release.

(4) Requirements for ordering or taking corrective action in
 response to a release.

(5) Requirements for closure of underground storage tanks to
 prevent future releases of regulated substances into the
 environment.

(6) Requirements for maintaining evidence of financial
 responsibility for:

(A) taking corrective action; and
 (B) compensating third parties for bodily injury and property
 damage caused by sudden and nonsudden accidental releases
 arising from the operation of an underground storage tank.

(7) Standards of performance for new underground storage tanks.

(8) Requirements for the following:

(A) Providing notice to the department of the existence of
 operational and nonoperational underground storage tanks, as
 required under 42 U.S.C. 6991a(a).

(B) Providing the information required on the form prescribed
 under 42 U.S.C. 6991a(b)(2).

(C) Providing notice, by any person who sells a tank intended
 to be used as an underground storage tank, to the purchaser of
 that tank of the owner's notification requirements established
 by this article and 42 U.S.C. 6991a(a).

**(d) A rule adopted under this section may be more stringent
 than a corresponding federal provision established under federal
 law if:**

**(1) a designee of the board presents evidence to the
 environmental quality service council that indicates why the
 rule should be more stringent than the corresponding federal
 provision;**

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1 (2) the environmental quality service council makes a
2 recommendation to the general assembly that the rule should
3 be more stringent than the corresponding federal provision;
4 and

5 (3) the general assembly enacts a statute that authorizes the
6 board to adopt a rule that is more stringent than the
7 corresponding federal provision established under federal
8 law.

9 (e) If the environmental quality service council reviews a rule
10 adopted under this section that is more stringent than a
11 corresponding federal provision established under federal law and
12 the environmental quality service council believes the rule should
13 not be more stringent, the environmental quality service council
14 shall make a recommendation to the general assembly that the
15 general assembly should enact a statute to:

16 (1) void the rule; and

17 (2) require the board to adopt a rule that is not more stringent
18 than the corresponding federal provision established under
19 federal law.

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